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13 UNITED STATES DISTRICT COURT
14 SOUTHERN DISTRICT OF CALIFORNIA
15

16 BRUCE J. STANIFORTH,,
17

18 Plaintiff,

19 v.

20 TOTAL WEALTH MANAGEMENT,
21 INC.; et al.,

22 Defendants.
23

Case No. 3:14-cv-01899 GPC (JLB)

Judge Hon. Gonzalo P. Curiel

JOINT STATUS REPORT OF FORMER
RECEIVER, THOMAS A. SEAMAN,
AND PLAINTIFF BRUCE J.
STANIFORTH, RE: RECEIVERSHIP
ACTION STYLED SEC v. TOTAL
WEALTH MANAGEMENT, INC., ET
AL.

24 **TO THIS HONORABLE COURT, ALL PARTIES, AND THEIR**
25 **COUNSEL OF RECORD:**

26 **PLEASE TAKE NOTICE THAT**, in accordance with this Court's
27 November 2, 2021 Order for the parties to file a Status Report regarding the status
28 of the above-entitled action as it relates to the Securities and Exchange Commission
enforcement and receivership action styled SEC v. Total Wealth Management, Inc.,
et al., USDC, S.D. Cal. Case No. 15-cv-226 BAS (MSB) (the "Receivership Case"),
Thomas A. Seaman (the "Former Receiver") and Plaintiff Bruce J. Staniforth
("Plaintiff") hereby submit the following Status Report:

1 **I. RELEVANT STATUS.**

2 **A. Status Of Receivership Case And Litigation Stay.**

3 The Former Receiver was discharged in the Receivership Case on April 21,
 4 2020 (see Receivership Case ECF No. 263), although the Receivership Case itself
 5 was not terminated, but instead stayed to permit the Former Receiver to make
 6 distributions of any settlement proceeds thereafter paid to him in connection with
 7 the then settled asset recovery matter styled Seaman v. Private Placement Capital
 8 Notes II, LLC, et al., USDC, S.D. Cal. Case No. 16-cv-0578 BEN (DHB) (the
 9 "PPCN Action"). As detailed below, the settling Defendants in the PPCN Action
 10 (the "PPCN Parties") were granted twenty-four (24) months from the August 9,
 11 2019 – to August 9, 2021 – to perform. (See Receivership Case ECF No. 258.) The
 12 PPCN Parties have failed to satisfy their payment obligations under the terms of the
 13 relevant settlement agreement and the Former Receiver is now authorized to so
 14 advise the Court and enter a stipulated default judgment against the PPCN Parties in
 15 the amount of \$5 million.

16 It is unclear at this point whether the Former Receiver will recover any funds
 17 for distribution in connection with the anticipated entry of the \$5 million judgment
 18 against the PPCN Parties. What appears clear is that, the Former Receiver having
 19 been discharged and released in the Receivership Case, there is no longer any
 20 receivership *res* against which the previously imposed litigation stay would apply,
 21 other than any funds recovered in connection with the settlement in the PPCN
 22 Action, the distribution of which will be governed by an existing order issued in the
 23 Receivership Case. Accordingly, the Receiver believes that the litigation stay
 24 imposed in the Receivership Case pursuant to Judge Bashant's February 12, 2015
 25 "(1) Preliminary Injunction, Appointment of a Permanent Receiver, and Related
 26 Orders; and (2) Order Vacating Hearing on Preliminary Injunction" (the
 27
 28

"Appointment Order"¹) (Receivership Case ECF. No. 8) no longer remains in effect, and does not present a bar to the continued prosecution of the above-entitled action, should Plaintiff wish to proceed with his claims. Plaintiff has indicated that he intends to continue to prosecute this action.

B. Former Receiver's Asset Recovery And Distribution Efforts.

By February 2019, the Former Receiver's efforts to recover assets for distribution to defrauded investors in the Receivership Entities had largely come to a close, with the exception of his expectation that the PPCN Parties would perform as required by the settlement of the PPCN Action. Accordingly, and with approximately \$2.8 million on-hand available for distribution to all holders of allowed claims, on February 11, 2019, the Former Receiver filed his Motion for Order Authorizing an Approving Omnibus Plan for Distribution on Allowed Claims (Receivership Case ECF Nos. 245, *et seq.*), in connection with which the Receiver submitted his recommendations to the Court as to which claims against the Receivership Entities should be allowed, and in what amounts, and proposed a *pro rata* distribution plan on allowed claims, with distributions to be paid from funds then recovered by the Former Receiver, with a potential later distribution to be made from any additional settlement payments received from the PPCN Parties. (*Id.*) Plaintiff's claim was recommended for allowance in the amount of \$632,783.85, with an initial, *pro rata*, proposed distribution amount of \$37,674.68. (*Id.* at Ex. A.) The Former Receiver's Motion was granted on April 8, 2019. (*See* Receivership Case ECF No. 253.) Thereafter, the distributions authorized in connection with the Court's Order on the Motion were made.

¹ As reflected in prior submissions to this Court, the litigation stay imposed by the Appointment Order applied only to those entities placed into receivership, including Total Wealth Management, Inc. and its subsidiaries and affiliated, including but not limited to Altus Capital Management, LLC (collectively, the "Receivership Entities").

1 The Former Receiver's records therefore indicate that Plaintiff received only
 2 partial reimbursement on his claims against the Receivership Entities. The Former
 3 Receiver takes no position on whether Plaintiff should be permitted to continue
 4 prosecuting the above-entitled action to recover on any remaining portion of his
 5 claims that were not able to be satisfied by the distributions made by the Former
 6 Receiver, save to reiterate his understanding that the litigation stay no longer bars
 7 the prosecution of this action against the Receivership Entities.

8 **II. CONCLUSION.**

9 For the foregoing reasons, the Receiver respectfully submits that it is his
 10 belief that the litigation stay imposed pursuant to the Appointment Order no longer
 11 bars the prosecution of this action against the Receivership Entities. As such, the
 12 Former Receiver does not anticipate making any further appearances, either on his
 13 behalf or on behalf of the Receivership Entities, in the above-entitled action.

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 15 Dated: November 10, 2021

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 DAVID R. ZARO
 JOSHUA A. DEL CASTILLO

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 18 By: /s/ Joshua A. del Castillo
 JOSHUA A. DEL CASTILLO
 Attorneys for Former Receiver
 THOMAS A. SEAMAN

19
 20
 21 Dated: November 10, 2021

CROSS LAW APC
 OLEG CROSS

22
 23 By: /s/ Oleg Cross
 OLEG CROSS
 Attorneys for Plaintiff
 BRUCE J. STANIFORTH

PROOF OF SERVICE

Bruce J. Staniforth v. Total Wealth Management, Inc., et al.
USDC, Southern District of California – Case No. 14-cv-01899 (GPC) (JLB)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 865 S. Figueroa Street, Suite 2800, Los Angeles, California 90017-2543.

On **November 10, 2021**, I caused to be served on the parties to this action addressed as stated on the attached service list or as indicated below, the document entitled: **JOINT STATUS REPORT OF FORMER RECEIVER, THOMAS A. SEAMAN, AND PLAINTIFF BRUCE J. STANIFORTH, RE: RECEIVERSHIP ACTION STYLED SEC v. TOTAL WEALTH MANAGEMENT, INC., et al.,**

☒ **E-FILING:** By causing the document to be electronically filed via the Court's CM/ECF system, which effects electronic service on counsel who are registered with the CM/ECF system.

I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on **November 10, 2021** at Los Angeles, California.

/s/ Martha Díaz
Martha Diaz